

REMARKS

Applicant has considered the outstanding Office action. It is respectfully submitted that the claims are directed to patentable subject matter as set forth below.

Applicant has amended claims 1, 3, 5, 6, 8-11, 13, 14 and 17-23. Support for the amendments to claims 1, 11 and 19 is found in the specification as originally filed at page 3, line 9, page 4, lines 5-9 and lines 15-20 and page 6, lines 18-22. Claims 5, 8, 17, 18 and 22 were amended to make them consistent with the amended claims from which they depend. Support for the amendments to claims 9, 13 and 21 is found in the specification as originally filed at page 5, lines 14-15. Support for the amendment to claim 10 is found in the specification as originally filed at page 4, lines 7-11. Claim 14 was amended solely to correct a typographical error. Support for the amendment to claim 20 is found in the specification as originally filed at page 5, lines 17-18. Support for the amendment to claim 23 is found in the specification as originally filed at page 4, lines 4-12 and 15-20 and page 6, lines 3-12 and 18-22. The dependency of claims 3, 5, 6 and 18 has been changed. No new matter has been added.

The drawings are objected to under 37 C.F.R. 1.83(a) for failing to show every feature of the invention specified in the claims. Replacement sheets are attached hereto including a new figure showing the claimed features not shown in the originally submitted drawings. Support for the new figure is found in the specification as originally filed at page 4, lines 7-11, page 6, lines 4-6 and in the drawings at Figure 1. Additionally, applicants have corrected a typographical error in Figure 3 where clasp 38 was incorrectly numbered 30. No new matter has been added.

Claims 6-8, 18, 22 and 23 are rejected under 35 U.S.C. §112, first paragraph, for containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor, at the time the application was filed, had possession of the claimed invention. Regarding claim 6, the Examiner states that it has not been adequately disclosed as to how the fluid flow is prevented from leaving the tube by a clamp. Regarding claims 8, 18 and 22, the Examiner states that it has not been adequately disclosed that the means for securing the tube adjacent the wall and the means of preventing a fluid from flowing through the tube comprise a single member.

Applicant has amended claim 6 to overcome the §112, first paragraph, rejection. Accordingly, withdrawal of the rejection of claims 6 and 7, which depends from claim 6, is requested. Applicant respectfully traverses the rejection as it pertains to claims 8, 18, 22 and 23.

At page 4, lines 7-11 of the specification as originally filed, the application reads that,

The securing means can be connected directly or indirectly to the container and include any means capable of securing the tube in place, for example, a clasp, a clip, an adhesive, a loop, a hook or the like. To prevent the flowable material from flowing through tube when it is tipped, the tube can be doubled over and placed in the securing means thus sealing the tube, or a plug or clamp capable of sealing the tube can be provided.

(**Emphasis added**). At page 6, lines 4-6 of the specification as originally filed, the application, describing the features of the drinking vessel of Figure 1, reads further that,

When mug 10 is to be used in the conventional manner described above, tube 34 is secured adjacent to annular wall 16 by a clasp 38 connected with annular wall 16. Clasp 38 includes arms 40 as shown in FIG. 1 which can be

spread apart by pressing tube 34 between arms 40. Arms 40 prevent tube 34 from dislodging from clasp 38 during the normal course of drinking from mug 10.

(**Emphasis added**). Applicant respectfully submits that one of ordinary skill in the relevant art, in view of the written description at page 4, lines 7-11, would recognize that by securing the tube in place while the tube is doubled over, the “securing means” (or “clasp”) constitutes a single member that acts as both a means for securing the tube adjacent the wall and a means of preventing a fluid from flowing through the tube. Thus, the written description states specifically that “[t]he securing means can be...any means capable of securing the tube in place,” and “the tube can be doubled over and placed in the securing means thus sealing the tube.” Additionally, applicant submits that further in view of the written description at page 6, lines 4-6 and the drinking vessel depicted at Figure 1, it is reasonably conveyed to the skilled artisan that the applicant, at the time the application was filed, had possession of the claimed invention, i.e. a means for securing the tube adjacent the wall and a means of preventing a fluid from flowing through the tube comprising a single member. Thus, while the written description at page 6, lines 4-6 does not describe and Figure 1 does not depict tube 34 being secured in place between arms 40 of clasp 38 while tube 34 is doubled over to seal tube 34, applicant submits that it is clear that the applicant had anticipated that tube 34 could be placed between arms 40 of clasp 38 while tube 34 was doubled over to seal tube 34, especially in view of the written description at page 4, lines 7-11 describing such an arrangement. Accordingly, withdrawal of the §112, first paragraph, rejection is requested.

Claims 6-8, 18, 22 and 23 are further rejected under 35 U.S.C. §112, second paragraph, as being indefinite for reasons identical to those raised by the Examiner in

support of the 35 U.S.C. §112, first paragraph, rejection. Accordingly, in view of the arguments raised in support of applicant's traversal of the 35 U.S.C. §112, first paragraph, rejection, withdrawal of the 35 U.S.C. §112, second paragraph, is respectfully requested.

Claims 1-3, 8-13, 18, 19 and 23 are rejected under 35 U.S.C. §102(b) as being anticipated by Edstrom, Sr. (U.S. Pat. No. 5,484,405). Applicant has amended independent claims 1, 11 and 19, from which claims 2, 3, 8-10, 13, 18 and 23 depend, to include a means of securing the tube with the wall. Edstrom, Sr. does not disclose such means. Accordingly, withdrawal of the §102(b) rejection is respectfully requested.

Claims 1-23 are rejected under 35 U.S.C. §103(a) as being unpatentable over Andreozzi (U.S. Pat. No. 4,607,755) in view of Appleman (U.S. Pat. No. D360,558). Applicant respectfully submits that a *prima facie* case of obviousness has not been set forth since Andreozzi and Appleman, alone or in combination, fail to teach or suggest each and every element of the claimed invention. *See In re Royka*, 490 F.2d 981, 108 USPQ 580 (CCPA 1974) ("To establish *prima facie* obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art"). Accordingly, withdrawal of the §103(a) rejection is respectfully requested.

Andreozzi teaches a children's drinking vessel for mounting on a fixed member in a vehicle. The drinking vessel includes a container having a bottom wall, a cylindrical body portion and a lip. Joined integrally to the inner wall of the body portion of the container is a tube in which a passageway is formed, the tube and passageway as formed therein extending in a vertical direction. The lowermost end of the tube is spaced upwardly with respect to the bottom wall of the container which provides for communication of the passageway with the interior of the container. The uppermost end of

the tube extends somewhat above the lip, the passageway thus extending above the lip and being exposed to provide for drinking the liquid from the container or for receiving a drinking straw thereon. As stated by the Examiner, Andreozzi does not teach or suggest a hole or aperture through the central portion of the bottom wall of the drinking vessel. Additionally, Andreozzi does not disclose a flexible tube connected with a hole or aperture located in the central portion of the closed bottom of a drinking vessel. Further, the drinking vessel taught by Andreozzi is not adapted and arranged for evacuating a fluid therefrom by gravity through a flexible tube and conventionally through an open top of the drinking vessel.

The Examiner relies on Appleman to make up for the shortcomings of Andreozzi. More particularly, the Examiner relies on Appleman to supply a drinking vessel having an opening in the central portion of the bottom. Thus, at page 5 of the Office action, the Examiner states that "Appleman as seen in Figs. 1-7, teaches a similar container where the opening is in [sic] central portion of the bottom. It would have been obvious to employ the bottom opening of Appleman in the container of Andreozzi to allow for more complete emptying of the container." It is respectfully submitted that Appleman fails to make up for the shortcomings of Andreozzi.

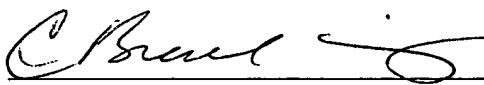
Appleman teaches a drinking cup with a spiral straw in fluid communication with the interior of the cup through an opening provided in the bottom of the cup. From the opening, the straw extends through a hole in a lower rim of the cup and thereafter wraps around the cup with an open end of the straw exiting through an upper portion of the cup before terminating at a point above the cup. Appleman does not teach a flexible tube

connected with a hole through the central portion of the bottom wall of a drinking cup or a drinking cup adapted and arranged for evacuating a fluid therefrom by gravity through a flexible tube and conventionally through an open top of the cup. Thus, Appleman does not make up for the shortcoming of Andreozzi. Accordingly, Andreozzi and Appleman, alone or in combination, fail to teach or suggest each and every element of the claimed invention as required to support a rejection under §103(a). Withdrawal of the rejection is requested.

Reconsideration and allowance of the claims are respectfully requested.

Respectfully submitted,

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CBB:tr

Enclosures - Replacement Sheets (2 pages/4 figures)
Drawing Sheet Showing Changes (1 page/3 figures)

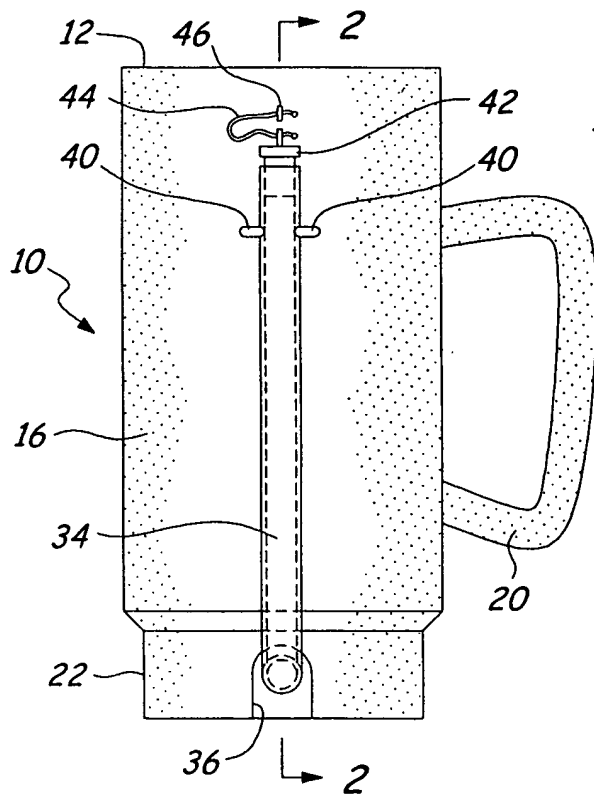


FIG. 1

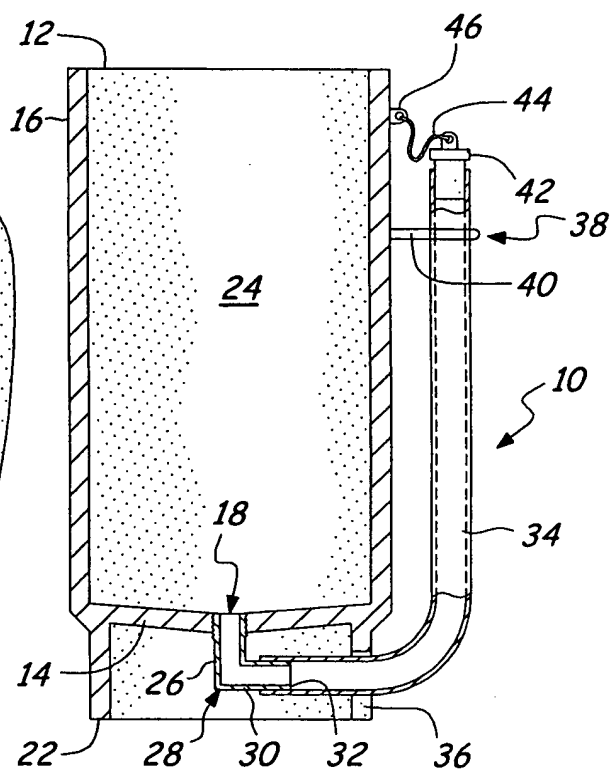


FIG. 2

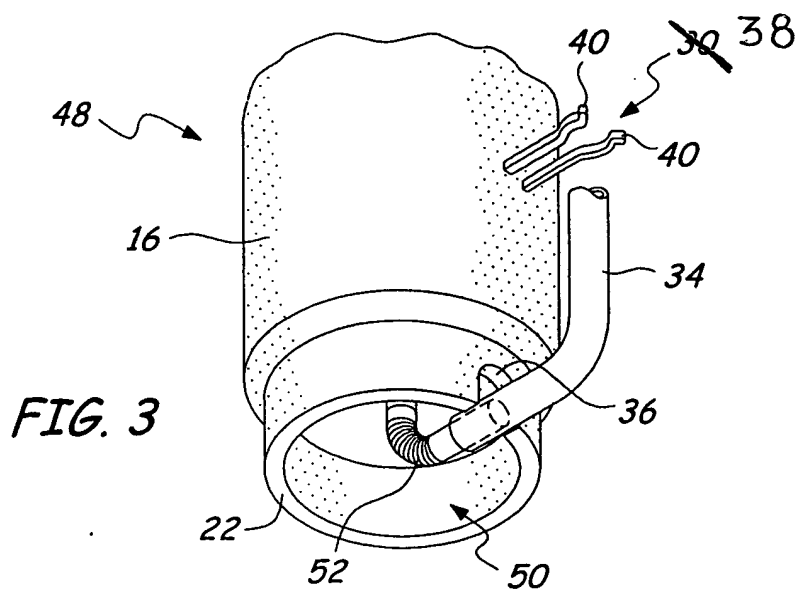


FIG. 3